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EC/US PUBLIC PROCUREMENT ACCORD PRESENTED TO EC MINISTERS

The EC Commission today has formally invited the Council of Ministers to approve the agreement drawn up with the United States aimed at a partial resolution of the transatlantic dispute over public procurement.

The elements of the agreement are contained in a Memorandum of Understanding between the EC and the USA, which will be transmitted to the Council along with a formal proposal to approve the package.

The agreement was reached following talks in Washington on April 19 and 20 between Sir Leon Brittan, EC Commissioner for External Economic Affairs, and Ambassador Mickey Kantor, US Trade Representative. It includes the following elements:

- As a general and balanced liberalization, both sides would remove limitations to each other's companies bidding to supply goods, works and services to central or federal government.

- The US would remove discrimination against EC bids for tenders by the Tennessee Valley Authority, as well as five federally owned electrical utilities. These are the power marketing administrations of the Department of Energy, namely: Bonneville Power Administration, Western Area Power Administration, Southeastern Power Administration, Southeastern Power Administration, Southeastern Power Administration.

- The EC would extend to the US the full benefits of the Utilities Directive (90/531/EEC of September 17, 1990), including the disapplication of Article 29, in relation to works contracts and the supply of products in the electrical sector. Other sectors including telecommunications would not be affected.

- The US would set in train a credible process to lead to maximum possible coverage of sub-federal entities - i.e. states, major municipalities and related entities, including the transport and water sectors etc. that grant US public contracts. This would involve the US Administration obtaining firm commitments to remove a wide range of 'Buy American' discrimination. In a side-letter to Sir Leon Brittan, Ambassador Kantor agrees immediately to initiate action to urge the states and the major municipalities to make such commitments.

- Both sides would jointly finance an independent study of the procurement opportunities arising from their respective offers and requests in the GATT-related Public Procurement Code. The study, which is to be completed by January 31, 1994, could be used as a yardstick in further negotiations covering procurement areas excluded from the present agreement. The terms of reference for the study, which have been agreed in advance, ensure that respective offers are evaluated both in qualitative and quantitative terms.

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